

REMARKS

The Office Action dated March 29, 2007 (hereinafter, "Office Action") has been reviewed and the Examiner's comments considered. Claims 23-24, 33-34, 37-38, and 41-43 are pending in this application. No amendments are made herein.

Claim Rejections – 35 USC § 103

Claims 23, 24, 34, 37, 38, and 41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,163,942 to Rydell (hereinafter, "Rydell") in view of U.S. Patent No. 4,198,960 to Utsugi (hereinafter, "Utsugi"). However, the Office Action admits on page 4 that the combination of Rydell and Utsugi fails to teach several features of the claims and then introduces U.S. Patent No. 6,527,781 to Bates et al. (hereinafter, "Bates"). Thus, for purposes of this response, Applicants assume the Examiner intended to make the rejection in view of Rydell, Utsugi and Bates. Claims 33 and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Rudell, Utsugi, and Bates as applied to claims 23, 24, 34, 37, 38, and 41, and further in view of U.S. Patent Application No. 2002/0019594 to McClellan et al. Claim 42 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Rydell, Utsugi, and Bates as applied to claims 23, 24, 34, 37, 38, and 41 and further in view of U.S. Patent No. 4,326,530 to Fleury. Applicants respectfully traverse these rejections.

Independent claim 23 recites, *inter alia*, "a first actuator configured to extend the first operating member so as to extend the first and second legs and to *simultaneously retract* the second operating member so as to retract the third leg, such that the tip member is displaced rearward and the first and second legs are displaced away from each other to facilitate maneuvering the basket around an object" (emphasis added). Independent claim 41 recites, *inter alia*, "wherein rotation of the rotatable actuator in a first direction moves the first and second gear racks so as to extend the first operating member and the first and second legs and to *simultaneously retract* the second operating member and the third leg" (emphasis added).

The Office Action admits that Rydell does not teach a device "configured to extend a first and a second leg and to simultaneously retract a third leg of the basket," but alleges that this

feature is taught by Utsugi (Office Action, p. 4). Applicants respectfully traverse this allegation and request reconsideration in view of the following.

Utsugi shows and describes an apparatus for removing foreign matter from a human body cavity “in which trapping wires can be *individually* extended from and withdrawn into the forward end portion of the sheath.” (Utsugi, col. 2, ll. 17-21, emphasis added). Accordingly, Utsugi instructs that a stone may be captured, as follows:

Then the trapping wires are individually operated. ...[The] trapping wires 33 at the side of the stone 44 are extended farther than the rest of the trapping wires 33 to cause them to be outwardly curved, as shown in FIG. 7, to permit the adjacent trapping wires 33 facing the stone 44 to be separated to a greater extent from each other so that the stone 44 is situated therebetween. (Utsugi, col. 4:36-43).

Thus, while Utsugi shows and describes *individually* extending different legs of a cage or basket, there is no showing or description in Utsugi of *simultaneous* extension and retraction of different legs of a basket as claimed. Applicants note that the ability to simultaneously extend and retract first and second operating members, as claimed, greatly reduces operator error and associated complications inherent in individually manipulating multiple wires to correctly position a basket and trap foreign matter in a body cavity.

Furthermore, Bates does not supply this feature missing from Rydell and Utsugi. Bates shows and describes embodiments in which looped wire members form baskets, the proximal ends 24 of the baskets joined to a cable or otherwise secured to a base 20 (*e.g.*, *see*, col. 7:53-55, col. 9:3-5, col. 10:32-35, col. 11:11-14, etc.). While Bates describes wire loops that are free to slide by one another, the end sections of *each* wire loop are brought together at the basket base (col. 9:53-56). Nowhere in Bates is simultaneous extension and retraction of a first and second operating member shown or described. In fact, Applicants could not find a single instance in Bates that described more than one operating member.

Moreover, although the Office Action alleges that Bates teaches “the proximal end of first and second legs (32, 34) being connected to the distal end of the first operating member (23),

and the proximal end of a third leg (28) being connected to the distal end of the second operating member (22)” (Office Action, p. 5), Applicants could not locate several of the cited Bates reference numerals (23, 32 or 34) in the figures or description. The reference numerals that were located (22 - single-unit hourglass profiled, 28 – double loop profile, star-shape profile) did not show what was purported in the Office Action (i.e., second operating member 22 and third leg 28). Thus, in addition to the missing feature of independent claims 23 and 41 discussed above, none of the cited art shows or describes the feature of a basket having at least three legs, the distal end of each leg coupled to a tip member, the proximal end of first and second legs connected to the distal end of a first operating member, the proximal end of a third leg connected to the distal end of a second operating member.

In view of the above, Applicants respectfully submit that a *prima facie* case of obviousness has not been established at least because all of the claim limitations are not taught or suggested by the cited combination of references (MPEP § 2143). Specifically, Rydell, Utsugi, and Bates fail to show or describe at least the claimed features of:

- ...a first actuator configured to extend the first operating member so as to extend the first and second legs and to simultaneously retract the second operating member so as to retract the third leg, such that the tip member is displaced rearward and the first and second legs are displaced away from each other to facilitate maneuvering the basket around an object. (Claim 23)
- ...wherein rotation of the rotatable actuator in a first direction moves the first and second gear racks so as to extend the first operating member and the first and second legs and to simultaneously retract the second operating member and the third leg...(Claim 41)
- ...a three-dimensional basket having at least three legs, each leg having a proximal end and a distal end, the distal end of each leg being coupled to a tip member, the proximal end of first and second legs being connected to the distal end of the first

operating member, and the proximal end of a third leg being connected to the distal end of the second operating member...(Claims 23 and 41)

Accordingly, for at least this reason, independent claims 23 and 41 are patentable over the cited combination. Also, claims 24, 33-34, 37-38 and 42-43 are patentable because they depend from a patentable independent claim, and also because they recite features not shown or described by the cited art. Therefore, Applicants request withdrawal of the rejections under 35 U.S.C. § 103.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 480102004910. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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